

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

RYAN MCFADYEN, <i>et al.</i> ,))
))
Plaintiffs,))
))
v.)	Civil Action No. 1:07-CV-00953
))
DUKE UNIVERSITY, <i>et al.</i> ,))
))
Defendants.))
))

AFFIDAVIT OF DARWIN LAWS

DARWIN LAWS, appearing before the undersigned notary public and being first duly sworn, deposes and says the following:

1. I am over eighteen years of age, suffer from no disability, and am competent to testify to the matters set forth herein, all of which are based upon personal knowledge and/or records of Defendant the City of Durham, North Carolina (the "City") relating to insurance policies and coverage, except for those matters stated to be based upon information and belief.

2. I am employed as the Risk Manager for the City, and I am familiar with the insurance policies maintained by the City, and with the records of the City as those records relate to insurance policies and coverage.

3. On January 30, 1986, the Durham City Council voted not to renew its existing automobile and comprehensive general liability insurance policies and to allow those policies to expire at midnight on January 31, 1986.

4. From February 1, 1986 until January 20, 1999, the City did not purchase liability insurance providing coverage for any claim which might be asserted against the City or any City employee or official, arising out of or relating to law enforcement operations and activities.

5. From January of 1999 until present, the City has obtained excess general liability insurance policies on an annual basis from a number of commercial insurance carriers.

6. Effective April 1, 2005, the City purchased a "Special Excess Liability Policy for Public Entities" (the "2005 Excess Policy") from the Insurance Company of Pennsylvania ("ICOP").

7. A copy of the 2005 Excess Policy is attached hereto as Exhibit 1.

8. Effective April 1, 2006, the City purchased "Special Excess Liability Policy for Public Entities" (the "2006 Excess Policy") from ICOP.

9. A copy of the 2006 Excess Policy is attached hereto as Exhibit 2.

10. Effective April 1, 2007, the City purchased a "Public Entity Excess Liability Policy" (the "2007 Excess Policy") from Everest Reinsurance Company.

11. A copy of the 2007 Excess Policy is attached hereto as Exhibit 3.

12. The 2005 Excess Policy, the 2006 Excess Policy, and the 2007 Excess Policy are the only insurance policies purchased by the City that potentially provide

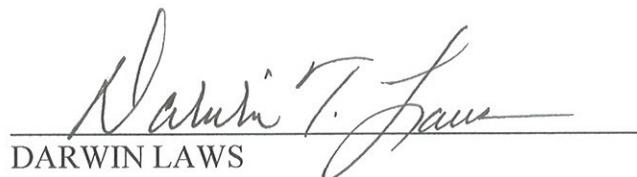
liability insurance coverage with respect to law enforcement operations and activities during the time period beginning April 1, 2005 and ending April 1, 2008 at 12:01 a.m.

13. The City does not now participate, and has not in the past participated, in any local government risk pool pursuant to Article 23 of Chapter 58 of the North Carolina General Statutes.

14. The City is not a party to any agreement with any city, county, or other local governmental entity to pool retention of their risks for property losses and liability claims and to provide for the payment of such losses of or claims made against any member of the pool on a cooperative or contract basis with one another.

15. The City is not a party to any agreement which requires a risk pool or any other entity to pay claims for which the City incurs liability.

This the 22nd day of October, 2008.



DARWIN LAWS

Sworn to and subscribed before me
this the 22nd day of October, 2008.



Notary Public

My commission expires: April 11, 2012

8838-33\P\005 Aff Risk Mgmt

